

REMARKS

The Final Office Action dated October 28, 2008 has been carefully considered. Claims 9, 24, 30, 33, 35, 41, 42 and 48 have been amended. Claims 1, 7, 8, 10-15, 17-23, 25-29, 32, 36, and 47 have been canceled. Claims 9, 24, 30, 31, 33, 35, 41, 42, 48 and 49 are in this application.

Applicants attorney thanks the Examiner for the courtesies extended during a February 26, 2009 interview. The substance of the interview was the difference between the present patch and the patch of U.S. Patent Application Publication No. 2001/0007671. A patch of the present invention was presented. The patch of the present invention is invisible, translucent single layer applied to wetted skin, then allowed to dry to form an invisible layer on the skin. The difference between the present patch and the patch of U.S. Patent Application Publication No. 2001/0007671 that teach transparent patch was discussed, and ways to overcome it. Since the application is under final rejection, an RCE was filed with the suggested amendment to claim 33 including closing the claim language to the layers of the patch and materials of the single matrix layer.

The previously presented claims were rejected under 35 U.S.C. § 112 as indefinite. Applicants have amended the claims to obviate the Examiner's rejections.

The previously presented claims were rejected under 35 U.S.C. § 103 as obvious in view of U.S. Patent No. 5,780,047 to Kamiya et al. in combination with U.S. Patent No. 5,467,798 to Royds et al. and U.S. Patent No. 5,695,779 to Mori. Applicants traverse the rejection.

The present claims recite that a dermatological active ingredient encapsulated in spray-dried nanospheres or microspheres is dispersed in an invisible or translucent film. The nanospheres or microspheres are formed of a hydrophobic material. None of the cited references teach or suggest a single invisible or translucent water soluble polymeric matrix layer and dermatological active ingredients encapsulated in spray-dried nanospheres or microspheres dispersed in the polymeric matrix layer.

Kamiya et al. teaches a water soluble adhesive sheet comprising a water soluble adhesive sheet and a water soluble protective material laminated thereon. The water soluble sheet includes a water-soluble polymer and water. The patch is dissolved during bathing. Kamiya et

al do not teach or suggest and invisible or translucent film for application of a dermatological active ingredient to the skin after wetting of the matrix layer. Kamiya et al. do not teach or suggest active ingredients encapsulated in spray-dried nanospheres or microspheres to provide controlled delivery of active ingredients.

Royds et al teach a patch including water-impermeable shell or backing layer. The shell provides a reservoir for a matrix layer. The matrix layer is formulated from gums and gelling agents. A pressure sensitive adhesive is disposed around the shell to secure the patch to the skin of a user. A visible indicator is associated with the reservoir to visibly change in response to moisture. Royds et al do not teach or suggest a patch formed of a single invisible or translucent matrix layer which is adherent to the skin without the use of an adhesive. Royds et al teach microcapsules formed of a drug and a coating. Royds do not teach or suggest active ingredients encapsulated in spray-dried nanospheres or microspheres to provide controlled delivery of active ingredients.

Mori disclose a transdermal therapeutic system including a rubbery adhesive having microcapsule encapsulating drugs dispersed in the rubbery adhesive. Mori does not teach or suggest a patch formed of a single invisible or translucent matrix layer which is adherent to the skin without the use of an adhesive. Accordingly, the invention defined by the present claims is not obvious in view of Kamiya et al. in combination with Royds et al. and Mori.

The previously presented claims 9, 24, 35, 41 and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,780,047 to Kamiya et al. combined with Royds et al. and Mori in view of U.S. Patent Application Publication No. 2001/0007671 to Gueret. Applicants traverse the rejection.

The Examiner conceded that Kamiya et al. fail to teach the salicylic acid as claimed in claim 9, or the period of applying the film as claimed in claims 35. The Examiner attempted to cure the defect by combining the teachings of Kamiya et al., Royds et al., Mori and Gueret. However, as discussed above and incorporated herein, Kamiya et al. is further defective in failing to teach that dermatological active ingredients are encapsulated in spray-dried nanospheres or microspheres dispersed in an invisible or translucent file of a polymeric matrix layer and that the nanospheres or microspheres are formed of a hydrophobic material and a patch that becomes

tacky after wetting, so that the adhesive property of the tacky patch adheres the patch to the skin. Gueret does not cure the defect because it does not teach the missing limitations. For this reason, alone, no prima facie showing of obviousness has been presented and the claims are patentable over the prior art.

In view of all the rebuttal argument presented above, Applicants respectfully request that all the rejections for obviousness be reconsidered and withdrawn.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should she believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,



Dated: March 30, 2009

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